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OFFICE OF THE ATTORNEY GENERAL

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DIVISION OF REGIONAL OFFICES  
BUFFALO REGIONAL OFFICE

September 13, 2024

**Via CM/ECF**

Hon. John L. Sinatra, Jr.  
United States District Judge  
Robert H. Jackson United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202

Re: NIFLA, et al. v. James  
Case No. 24-cv-515-JLS

Dear Judge Sinatra:

This joint letter is submitted in response to the Court's September 9, 2024 text order requesting the parties file a proposed schedule for responses to the complaint and supplemental complaint. (ECF No. 39).

The Office of the Attorney General ("OAG") is considering whether to appeal this Court's August 22, 2024 Order (ECF No. 37) granting the NIFLA Plaintiff's motion for preliminary injunction (the "NIFLA PI Order"). The deadline to file its notice of appeal is September 23, 2024. If the OAG appeals the NIFLA PI Order, the OAG will seek a stay of all proceedings in the District Court, including a stay of the OAG's obligation to answer or otherwise respond to the Complaint and Supplemental Complaint. The NIFLA Plaintiffs do not oppose a stay pending the appeal.

With the stay, the OAG would also be seeking to stay the Summit Plaintiffs' preliminary injunction motion with the stipulation that the NIFLA PI Order is equally applicable to the Summit Plaintiffs. The Summit Plaintiffs will not consent to such a stay as it is their position that there is no reason not to proceed with their PI motion while the NIFLA appeal is pending as a mere stipulation that the NIFLA injunction is applicable to the Summit Plaintiffs does not give the protection of a court-ordered injunction, nor is there any reason to delay motion proceedings in the Summit litigation and then discovery given that the NIFLA appeal could take years to resolve. As a result, if the OAG appeals the NIFLA PI Order, it intends to file a motion to stay the District Court proceedings.

As mentioned above, the deadline to file the notice of appeal is September 23 and the OAG's opposition to the Summit Plaintiff's preliminary injunction motion is due September 27. Given that the OAG may file a motion to stay shortly after September 23, the OAG wants to push back the deadline to file its opposition to the Summit Plaintiff's preliminary injunction motion to avoid expending agency resources on motion practice that will be moot if the Court grants the stay. In exchange for pushing back the opposition deadline, the OAG would stipulate that the terms of the NIFLA PI Order apply equally to the Summit Plaintiffs.

The Summit Plaintiffs oppose moving the OAG's deadline to oppose their preliminary injunction motion as they maintain that they have expended considerable time and effort in preparing and filing their PI motion after the enforcement stand-still with NIFLA was not previously extended to the Summit Plaintiffs, and the OAG's opposition would be essentially the same as that submitted in the NIFLA litigation.

Given this, the parties request a conference with the Court to discuss the briefing schedule on the Summit Plaintiff's preliminary injunction motion.

Thank you for your kind attention to this request.

Respectfully Yours,

*/s/ Daniel R. Maguire*

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